

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re: Adeline Olmer Santiago *aka* Adeline M. Olmer

Chapter 11

Case No. 17-22226-rdd

Debtor(s).
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CREDITOR'S AMENDED LOSS MITIGATION STATUS REPORT

Loan Information:

- 353 Sleepy Hollow Rd
Briarcliff, NY 10510-2138
- XXXXXX9735
- Creditor's lien priority position: First

Loss Mitigation Information:

- Loss Mitigation was requested on: 4/10/2017
- A "*Loss Mitigation Order*"¹ was entered on: 6/30/2017
- The Creditor Loss Mitigation Affidavit was filed on: 7/20/2017
- The Loss Mitigation Status Conference is set for: 8/28/2017

The creditor has completed the loss mitigation review and has reached the following conclusion. The attached denial letter was issued on November 21, 2017.

Arrears: exceed \$700K, presently

Approximate payoff, good through today: \$2,318,641.18

Gross monthly income: \$25,000.00

Net monthly income: \$18,750.00

Other household expenses \$13,600.00

Pre-Mod P&I \$7600.86

Current monthly escrow \$4468.74 (includes a shortage)

$\$18,750.00 - 13,600 - 7600.86 - 4468.74 = (\$6919.60)$

As the net disposable income is negative, Debtor did not qualify for a loan modification.

¹ Italicized words in quotations indicate that there is a form by the same name on the Bankruptcy Court's website. These forms shall be used whenever applicable.

On February 2, 2018, counsel for Creditor, Jenelle C. Arnold, and Debtor, Bruce Bronson, held a telephone conference to go over the denial and figures provided. Debtor is to provide a new package by February 12, 2018.

Dated: February 5, 2018

Respectfully Submitted:

/s/ Jenelle C. Arnold

Jenelle C. Arnold
Bar No.: 5263777
Aldridge Pite, LLP
Attorney for Secured Creditor
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3575 Piedmont Road, N.E., Suite 500
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November 21, 2017

J MARK SANTIAGO

353 SLEEPY HOLLOW RD
BRIARCLIFF MANOR, NY 10510

Account Number: [REDACTED]

Property Address: 353 SLEEPY HOLLOW R
BRIARCLIFF MANOR, NEW YORK 10510

Dear Homeowner(s):

Thank you for contacting us about your mortgage. Based on a careful review of the information you provided to us, you are eligible for a Fay Servicing Short Sale. Additional information can be found on Attachment B.

A short sale is the sale of your property for less than the balance remaining on your mortgage loan. With a short sale, we will release our mortgage lien on your property once we receive the proceeds from the sale of the property, even though the proceeds are less than the loan balance you owe. If you are able to close a short sale on terms that have been approved by us, including any required contribution, benefits to you may include:

- Avoiding the negative impacts of a foreclosure
- Eliminating/reducing your mortgage debt and receiving a waiver of any deficiency

To Accept This Short Sale Offer

Review Attachment B and contact us at (800) 495-7166 or in writing at the address provided below by no later than December 5, 2017 to indicate your intent to accept this offer.

Fay Servicing, LL
440 S. LaSalle St., Ste. 2000
Chicago, IL 60605
ATTN: Loss Mitigation

TIME IS OF THE ESSENCE

If you fail to accept this offer by December 5, 2017, this offer will be revoked and we may refer your loan to foreclosure, or if your loan has been referred to foreclosure, foreclosure proceedings may continue and a foreclosure sale may occur.

If you have questions regarding this notice or your mortgage payment, please contact us at (800) 495-7166, or contact your account manager, KEVIN DAVIS, using the direct contact information below.

Phone: 312-517-0761

Email: kdavis@fayservicing.com

For a complete list of programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered, see Attachment A.

Additional Information and Legal Notices

Federally Declared Disaster Area:

If you are in a Federally Declared Disaster Area, you may have up to 120 days after the disaster area was designated by the federal government to appeal the decision that your loan is not eligible for the program(s). If you believe that you may be in a Federally Declared Disaster Area, please call us at (800) 495-7166.

Federal ECOA Notice:

Fay Servicing, LLC is required by law to inform you that the Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applications on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Bureau of Consumer Financial Protection, 1700 G Street N.W., Washington, DC 20552.

Our credit decision was based in whole or in part on information compiled from reports obtained from one or more of the three consumer reporting agencies listed below. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. These reporting agencies played no part in our decision and are unable to supply specific reasons we have denied credit to you. You have a right to receive a free copy of your report from these reporting agencies, if you request it no later than 60 days after you receive this notice. In addition, if you find that information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the applicable reporting agency by contacting that agency at the number provided below:

Equifax: PO Box 740241 Atlanta, GA 30374-0242 (800) 685-1111
Experian: PO Box 9701 Allen, TX 75013-9701 (888) 397-3742
TransUnion: PO Box 2000 Chester, PA 19022-2000 (800) 916-8800

Homeownership Counseling Services:

Homeownership counseling is available through a variety of nonprofit organizations experienced in homeownership counseling and approved by the Secretary of Housing and Urban Development (HUD). A listing of such organizations may be obtained by calling the HOPE Hotline Number: (888) 995-HOPE. This hotline can help with questions about the program and offers access to free HUD-certified counseling services in a variety of languages.

Right to Appeal

You have the right to appeal our decision. If you would like to appeal, you must contact us in writing at the address provided below, no later than 14 days from the date of this notice, and state that you are requesting an appeal of our decision. You must include in the appeal your name, property address, and mortgage loan number. You may also specify the reasons for your appeal, and provide any supporting documentation. Your right to appeal expires 14 days from the date of this notice. Any appeal requests or documentation received after 14 days from the date of this notice may not be considered.

Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605
ATTN: Appeals

If you elect to appeal, we will provide you a written notice of our appeal decision within 14 calendar days of receiving your appeal. Our appeal decision is final, and not subject to further appeal.

If you elect to appeal, you do not have to accept this offer until resolution of the appeal. If we determine on appeal that you are eligible for another loss mitigation program, we will send you an offer for that program. In that case, you will be given 14 calendar days from the date of the appeal decision to choose to accept the current offer or indicate your intent to accept the new offer.

If you wait to make your past due payments until after receiving our appeal decision, your loan will become more delinquent. Any unpaid interest, and other unpaid amounts, such as escrows for taxes and insurance, will continue to accrue on your mortgage loan during the appeal, and will be added to the total amount due to bring your loan current.

Attachment A

Based on our review of your financial circumstances, the following are programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered:

Repayment Plan:

Based on the income information and documentation provided the current income is insufficient to achieve a payment that would qualify for the program.

Deferment (Limited):

Based on the income information and documentation provided the current income is insufficient to achieve a payment that would qualify for the program.

Fay Servicing Modification:

Based on the income information and documentation provided the current income is insufficient to achieve a payment that would qualify for the program.

Deferment (Large Amount):

Based on the income information and documentation provided the current income is insufficient to achieve a payment that would qualify for the program.

Fay Servicing Short Sale:

You were deemed eligible for this program.

Fay Servicing Deed-in-Lieu:

You were not offered this program because you are being offered a loss mitigation program deemed more appropriate based on all information present.

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Attachment B

Based on a review of the information you provided, you have been determined conditionally eligible to participate in the short sale program. A short sale is the sale of your Property for less than the balance remaining on your mortgage loan. With a short sale, we will release the mortgage lien on your Property once we receive the proceeds from the sale of the Property, even though the proceeds are less than the loan balance you owe.

To Participate in the Short Sale Program

You must contact us at (800) 495-7166 or in writing at the address provided below no later than **12/5/2017** to indicate your intent to pursue a short sale. If you contact us by **12/5/2017** to indicate your intent to pursue a short sale, we will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the next legal action in the foreclosure proceedings. If you do not respond by **12/5/2017**, please be advised that any pending foreclosure action or proceedings may be resumed and a foreclosure sale may occur.

Mail:

Fay Servicing, LLC
440 South LaSalle St., Ste. 2000
Chicago, IL 60605
ATTN: Loss Mitigation

If you contact us by **12/5/2017** to indicate your intent to pursue a short sale, you will have until **3/21/2018** to sell your Property. During that time, if you meet the requirements defined in the *Borrower Responsibilities* section below, Fay Servicing, LLC will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the foreclosure action or proceedings. If a short sale offer for your Property is not approved by **3/21/2018**, or you otherwise fail to abide by the requirements of the short sale program as described in this notice, please be advised that any pending foreclosure action or proceedings may be resumed and a foreclosure sale may occur.

Borrower Responsibilities

Provided you continue to meet the requirements of the short sale program as described in this notice, you have until **3/21/2018** to sell your Property. As part of selling your Property in a short sale, you have certain responsibilities:

1. **Facilitate an Interior BPO of the Property.** If an interior BPO of the Property has not yet been completed or was completed more than 90 days ago, you must cooperate with our vendor to complete an interior BPO of the Property within 14 days after you provide timely notice of your intent to pursue a short sale, so we may establish the Property's condition and value.
2. **List the Property for Sale.** If your Property has not yet been listed at an approved list price, you must list your Property in as is condition for no less than the amount that we approve in writing within 14 days after we provide you the approved list price. We are not responsible for the accuracy of the list price and have no responsibility to you in the event the Property is not sold. We may require you to adjust the list price or other offer terms. The Property must be listed with a licensed real estate agent who is not a borrower on the mortgage loan. Further, you cannot list the Property with or sell it to anyone that you are related to or have a close personal or business relationship with. In legal language, it must be an *arm's length transaction*. Any knowing violation of this requirement may violate federal law. You may not have any agreements to receive a portion of the commission or the sales price after closing. You also may not have any expectation that you will be able to buy or rent your Property back after the closing. Finally, you must include the following clauses in your Listing Agreement and Sales Contract:
 - a. Cancellation Clause – *Seller may cancel this Agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration, if the property is conveyed to the mortgage insurer or the mortgage holder.*
 - b. Listing Agreement Contingency Clause – *Sale of the property is contingent on written agreement to all sale terms by the mortgage holder and the mortgage insurer (if applicable).*

Once the Listing Agreement is complete, you must forward us a copy signed by all parties. Please mail all required documents to the following address: Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605, ATTN: Asset Disposition.

3. **Consent to Discuss Your Records.** We will need to talk to your broker and others involved in the short sale of the Property. To authorize us to communicate and share your personal financial information about your mortgage, credit history, subordinate liens, and plans for relocation with your broker and other third parties that could be involved in the short sale transaction, you must provide us with a completed Third Party Authorization Form within 14 days of the date of this notice. It is necessary for us to receive this consent in order to proceed with the short sale transaction. (Please contact your Account Manager if you need assistance with the Third Party Authorization Form.)
4. **Bank Statements.** In order to determine your eligibility to participate in all available short sale programs, and evaluate your potential participation in incentive programs, you must provide two months of statements for all bank accounts and brokerage accounts within 14 days of the date of this notice.
5. **Upkeep of the Property.** Keep your Property in good condition and repair and cooperate with your broker to show it to potential buyers. If your Property is occupied by a tenant (or your legal dependent, parent, or grandparent who is living in the Property rent free), the tenant must also satisfy this requirements. You are responsible for all property maintenance and expenses during the listing period including utilities, assessments, association dues, and costs for interior and exterior upkeep required to show the Property to its best advantage. Additionally, until ownership is transferred, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses as provided in the mortgage documents, we may require that they be applied to reduce the mortgage debt.
6. **Clear Title.** Be able to provide the buyer of your Property with clear title. To start, determine if you have other loans, judgments, or liens secured by your Property, such as a home equity line of credit or a second mortgage. If there are such liens, you must inform us about them. You will need to either pay these loans off in full or negotiate with the lien holders to release them before the closing date. Under this short sale program, you must make sure other lien holders will agree not to pursue other legal action related to the payoff of their lien, such as a deficiency judgment. You may be able to get help from your broker to negotiate with the other lien holders.
7. **Requirements for Sales Contract.** The Sales Contract must contain the following clauses:
 - a. *Seller and Buyer each represent that the sale is an 'arm's length' transaction and the Seller and Buyer are unrelated to each other by family, marriage, or commercial enterprise.*
 - b. *Buyer agrees not to sell the property within 30 days of closing of this sale. Buyer agrees further not to sell the property within 90 calendar days of this sale for a price greater than 120 percent of the short sale price.*
8. **Send In Accepted Offer.** Within three days after you accept an offer on your Property, you will need to send us a copy of the fully executed Sales Contract plus all addenda, the buyer's financing pre-qualification letter or proof of funds, a preliminary Closing Disclosure, and proof of costs/fees listed on the Closing Disclosure.
9. **Hardship Affidavit.** If you have not already, you must complete, sign, and return a Hardship Affidavit Form when you submit an accepted offer. The Hardship Affidavit Form is your official certification of the financial hardship you have experienced and your compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (Please contact your Account Manager if you need assistance with a Hardship Affidavit Form.)

Notwithstanding the terms of this letter, if the short sale terms are not satisfied because you have failed to submit a purchase offer which is approved by us within the required 120-day time frame, you may continue to list your Property for sale after 3/21/2018 or the date on which we inform you the offer is declined, as applicable. While foreclosure proceedings may continue, we may review any purchase offer submitted, but only if there is adequate time prior to the foreclosure sale date.

Servicer's Responsibilities

Provided you continue to meet the requirements of the short sale program as described in this notice, we also have certain responsibilities:

1. **Full Satisfaction of Mortgage.** Provided the Property sells at our approved list price or you realize the acceptable proceeds (all the funds that remain after the approved sales costs have been paid) from the sale, and provided you meet all the other terms of the short sale program, we will prepare and send to the settlement agent for a recording a lien release in full satisfaction of the mortgage, foregoing all rights to pursue a deficiency.

2. **Price Adjustments.** If the Property does not sell, we will have the option of adjusting the list price or other offer terms.
3. **Suspension of Foreclosure.** Provided you continue to meet all of the terms and conditions of the short sale program, we will continue to suspend any pending foreclosure action or proceedings until the expiration of the 120-day marketing period, plus any extensions that we may grant in writing, or until the closing date of an approved short sale, whichever is later. If a short sale offer for your Property is not approved by 3/21/2018, or you otherwise fail to meet the requirements of the short sale program as outlined in this notice, please be advised that any foreclosure action or proceeding that was suspended following our receipt of your request may be resumed and a foreclosure sale may occur.
4. **Tax Reporting.** We will report the difference between the remaining amount of principal you owe and the amount that we receive from the sale of the Property to the Internal Revenue Service (IRS) on Form 1099C, as debt forgiveness. In some cases, debt forgiveness could be taxed as income. The amount, if any, we pay you or your tenant for relocation assistance may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
5. **Credit Reporting.** We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for, the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit, you may want to visit the FTC website – www.ftc.gov Consumer Information – Credit Scores.
6. **Termination of Our Responsibilities.** As described in the *Borrower's Responsibilities* section above, our responsibilities described in this notice will terminate on 3/21/2018, unless we notify you otherwise. We may also terminate our responsibilities as described in this notice at any time if:
 - a. You fail to authorize us to discuss your personal financial information with your broker or others involved in the short sale transaction;
 - b. Your financial situation improves significantly, you qualify for loan modification, you bring the account current, or you pay off the mortgage in full;
 - c. You or your broker fails to act in good faith in marketing and/or closing on the sale of the Property, or otherwise fails to abide by the terms of the short sale program;
 - d. A significant change occurs to the Property's condition or value;
 - e. There is evidence of fraud or misrepresentation;
 - f. You file for bankruptcy and the Bankruptcy Court declines to approve the short sale transaction;
 - g. Litigation is initiated or threatened that could affect title to the Property or interfere with a valid conveyance;
 - h. You or your tenant, if applicable, fail to cooperate with the listing broker or make the Property available for marketing; or
 - i. You do not return a Hardship Affidavit signed by all borrowers.
7. **Approval of Sale.** Within 10 business days of our receipt of an executed Sales Contract and all addenda, we will approve the short sale transaction if it is within the requirements of the short sale program and any other liens are released.
8. **Closing.** The closing must occur within 45 calendar days of the Sales Contract execution date.
9. **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the sale are subject to the written approval of the mortgage insurer or guarantor.

Other Important Information

Allowable Costs that May be Deducted from Gross Sale Proceeds – In addition to the costs of settling subordinate liens and expenses for relocation assistance, we will allow the following items to be deducted from gross sale proceeds of your Property:

- **Closing Costs** – The closing costs paid by you or on your behalf as the seller must be reasonable and customary for the market. Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds, may not exceed five percent of the list price.
- **Real Estate Commissions** – We will allow to be paid from sale proceeds, real estate commissions of five percent of the contract sales price, to be paid to the listing and selling brokers involved in the short sale transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from

the commission due on sale. Additionally, any outsourcing firm or third party retained as an agent for us may not charge (either directly or indirectly) any outsourcing fee, short sale negotiation fee, or similar fee in connection with the short sale.

Relocation Assistance – If you or a tenant occupies the Property as a principal residence and you wish to receive (or have your tenant receive) relocation assistance, you must inform us, in writing, of your request. Please send us an email indicating that you will request relocation assistance to the following email address – assetdisposition@fayservicing.com. Alternatively, you may send a signed, hard copy of your request to the following address: Fay Servicing, LLC, 440 S. LaSalle, Ste. 2000, Chicago, IL 60605 ATTN: Asset Disposition. You will be required to certify under penalty of perjury at closing that the Property is occupied as a principal residence by yourself or a tenant.

To receive relocation assistance, the occupant must be required to vacate as a condition of the short sale transaction. In addition, you must provide: (i) evidence that the Property is your/their principal residence, which in the case of a tenant may include information concerning the tenant, a copy of the lease agreement or other evidence of occupancy; and (ii) a certification signed by each occupant that will receive relocation assistance attesting to the occupant's compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Certification). We will provide you with a Dodd-Frank Certification Form(s). If you fail to deliver the Dodd-Frank Certification at least seven days prior to the closing of the sale of the Property, the relocation assistance will not be paid. Upon your compliance with the requirements of the short sale program, we will instruct the settlement agent to pay the occupant from the sale proceeds at the same time that all other payments, including the payoff of the first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of occupants.

Short Sale Affidavit – At closing, the buyer and seller will be required to execute an affidavit certifying that the sale is an *arm's length* transaction and the seller and buyer are unrelated to each other by family, marriage, or commercial enterprise. The affidavit will also include an agreement by the buyer not to sell the Property within 30 days of closing of the sale, or between 31 and 90 calendar days of the sale for a price greater than 120 percent of the gross sales price and an affidavit of occupancy.

Settlement of a Debt – You should understand that this proposed transaction represents our attempt to reach a settlement of the delinquent mortgage. There is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise all remedies under the mortgage, including foreclosure.

If you have any questions about this notice, please contact us at (800) 495-7166. Our office hours are Monday – Thursday 8am – 9pm, Friday 8:30am – 5pm, and Saturday 10am – 4pm, CST.

Sincerely,

Fay Servicing, LLC